



October 12, 2009
Agenda Item 6.2

MEMORANDUM

TO: Dennis Fay
Alameda County Congestion Management Agency
FROM: CJ Strategies
RE: Legislative Update
DATE: October 1, 2009

Surface Transportation Reauthorization

The current surface transportation authorization law (SAFETEA-LU) expired on September 30. Congress approved a one-month extension through October 31, as part of the Continuing Resolution (CR).

As you know, Chairman Oberstar supported a 3 month extension, which the House approved last week. Earlier this week, the Senate also agreed to take up a 3 month extension of SAFETEA-LU. However, negotiations broke down the night of September 30, over how to pay for the repeal of the \$8.7 billion rescission written into SAFETEA-LU. Congress must find offsets under pay-as-you-go budget rules. Senators Boxer (D-CA) and Inhofe (R-OK) reached a deal on using the Troubled Asset Relief Program (TARP) to pay for the repeal, but a few Republican senators objected.

According to the House Transportation and Infrastructure Committee, all 50 States and the District of Columbia will face a rescission of some amount of contract authority, which will marginally impact States' flexibility in managing their highway programs. However, the "real dollar" impact of the contract authority rescission is far lower than \$8.7 billion. According to information provided by the Federal Highway Administration (FHWA), most of the contract authority to be rescinded would be unavailable for obligation due to limits on States' annual obligation authority. FHWA reports that only \$334 million of the funds rescinded could have been obligated had they not been rescinded, and expects there to be limited impact on highway projects underway.

Regardless, Congress will need to approve another extension before the end of October and will likely address the rescission issue.

Climate Change

Senators Barbara Boxer (D-CA) and John Kerry (D-MA) introduced their long awaited climate change draft bill yesterday (Attached are the draft bill and a section-by section summary). The EPW Committee plans to hold hearings next week with mark up likely the week of October 12. Senate floor action will likely be pushed off until 2010.

As you are aware, the House passed legislation in June (H.R. 2454) that would cap greenhouse gas emissions and set up a market-based trading program for companies to meet the cap. The House-passed bill makes transit a limited eligible expense under a state energy grant program, but it fails to provide a guaranteed transit investment. The House bill gives states the option of using up to 10 percent of their allocations toward bus systems, light rail and other transit projects, but the Senate plan would mandate that states use all 10 percent toward addressing transportation, which accounts for a third of the nation's total carbon emissions.

It remains to be seen how the Senate will ultimately allocate emissions allowances in its bill, but the House gave states 10 percent, leaving up to 1 percent of the total allocations for transit. This is only a fraction of what a number of lawmakers, including Senator Tom Carper (D-DE), are supporting. He continues to push his bill, CLEAN-TEA (S.575), which would require 10 percent of any cap-and-trade revenues to go toward low-carbon transportation.

Specifically, Sections 112 and 113 of Division A are the CLEAN TEA sections of the Senate draft. Section 112 requires states and large Metropolitan Planning Organizations to incorporate greenhouse gas (GHG) reductions targets into their long-range transportation plans. Section 113 establishes a performance-based grant program at the Department of Transportation to reward the best actors.

Section 202 of Division B, states that 10% of the state and local government energy efficiency allowances are devoted to the grant program in Section 113. In Section 208 of Division B, 44% of state adaptation allowances are devoted to transit. As stated above, the allowance values will be filled in when the Chairman's mark is released in two-three weeks.

Appropriations

Congress passed a one-month continuing resolution (CR) before the new fiscal year began on October 1. This legislation will keep all government agencies funded through October 31 at existing FY09 levels. The House passed all of its FY10 bills before the August recess, but the Senate has passed only 6 of its appropriations bills.

The Senate approved its Transportation HUD bill in mid-September; however the House and Senate have not yet begun formal conference negotiations. Discretionary funding levels in the bill vary just slightly between the Senate and House versions, with the Senate calling for \$67.7 billion and the House providing \$68.8 billion. Both bills provide nearly \$42 billion for highway investments and \$10.5 billion to transit programs.

The most significant funding difference between the two bills is on high-speed rail. The White House sought \$1 billion for the program. The House included \$4 billion for high-speed-rail grants; although \$2 billion of that would be shifted to a National Infrastructure Bank should Congress enact authorizing legislation.

The Senate bill would provide \$1.2 billion for the high speed rail program. It includes no money for an infrastructure bank, substituting \$1.1 billion in grants for large infrastructure projects. The \$1.1 billion would provide additional funding for TIGER grants. The White House is urging Congress to include money for the infrastructure bank in the final bill. President Obama first touted the idea of a dedicated bank to pay for large, national infrastructure projects on the campaign trail and has continued to push for it.

The House bill provides \$1.83 billion for New Starts – this is the same as the President’s request. The Senate bill provides an additional \$480 million for New Starts.

The Senate bill also includes \$100 million in addition funding for TIGGER grants; the House bill does not include any funding for the program.

The House-passed bill currently includes two Congestion Management Agency priorities:

- \$1,000,000 for I-580 Corridor Improvements
- \$500,000 for the Union City Intermodal Station

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A SUMMARY OF THE CLEAN ENERGY JOBS AND AMERICAN POWER ACT

AS INTRODUCED September 30, 2009

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the “Clean Energy Jobs and American Power Act”.

Sections 2. Findings. Describes the impacts of climate change and the benefits of transitioning to a clean energy economy.

Section 3. Economywide Emission Reduction Goals. Establishes targets for reducing global warming pollution.

Section 4. Definitions.

DIVISION A—AUTHORIZATIONS FOR POLLUTION REDUCTION, TRANSITION, AND ADAPTATION

Section 101. Structure of Act. Describes the authorizations included in the bill, including those that receive an allocation of allowances under Division B.

TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

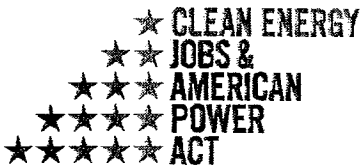
Subtitle A—Clean Transportation

Section 111. Emission Standards. Amends Title VIII of the Clean Air Act to require EPA to establish greenhouse gas emission standards for new heavy-duty vehicles and engines, and for nonroad vehicles and engines.

Section 112. Greenhouse Gas Emission Reductions Through Transportation Efficiency. Requires the EPA Administrator, in consultation with the Secretary of Transportation, to establish national greenhouse gas emission reduction goals, as well as standardized emission models and related methodologies to be used by States and metropolitan planning organizations (MPOs).

Section 113. Transportation Greenhouse Gas Emission Reduction Program Grants. Requires the Secretary of Transportation to provide grants to States and MPOs to help reduce greenhouse gas emissions from the transportation sector.

Section 114. SmartWay Transportation Efficiency Program. Amends Title VIII of the Clean Air Act to expand an existing EPA loan and fuel saving technology deployment program, the SmartWay Transport Partnership, to help American truckers upgrade to more fuel efficient and less polluting vehicles.



Subtitle B—Carbon Capture and Sequestration

Section 121. National Strategy. Requires the EPA Administrator, in consultation with the heads of other relevant Federal agencies, to submit to Congress a report setting forth a unified and comprehensive strategy to address the key legal and regulatory barriers to the commercial-scale deployment of carbon capture and storage.

Section 122. Regulations for Geological Sequestration Sites. Amends the Clean Air Act to require the Administrator to establish a coordinated approach to the certification and permitting of sites where geologic sequestration of carbon dioxide will occur. Requires the EPA Administrator to promulgate regulations to minimize the risk of escape to the atmosphere of carbon dioxide injected for geologic sequestration and details the requirements of such regulations.

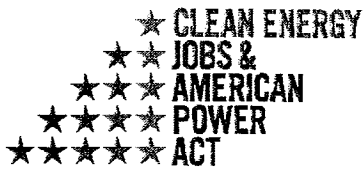
Section 123. Studies and Reports. Requires the Administrator to establish a multi-stakeholder task force and conduct a study of the legal framework for geologic sequestration sites and activities.

Section 124. Performance Standards for Coal-fueled Power Plants. Amends the Clean Air Act to establish performance standards for new coal-fueled power plants permitted in 2009 or thereafter. Describes eligibility criteria, applicable emission standards, and the schedule upon which such standards must be met. Plants permitted in 2020 or thereafter are required to meet specified standards once they begin operations. Plants permitted from 2009-2020 are required to meet the specified standard within four years after certain technology deployment criteria are met but no later than 2025.

Section 125. Carbon Capture and Sequestration Demonstration and Early Deployment Program. Establishes a program for the demonstration and early deployment of carbon capture and sequestration (CCS) technologies. Authorizes fossil fuel-based electricity distribution utilities to hold a referendum on the establishment of a Carbon Storage Research Corporation. If approved by entities representing two-thirds of the nation's fossil fuel-based delivered electricity, the Corporation would be operated as a division or affiliate of the Electric Power Research Institute and would assess fees totaling approximately \$1 billion annually for ten years, to be used by the Corporation to fund the large-scale demonstration of CCS technologies in order to accelerate the commercial availability of those technologies.

Subtitle C—Nuclear and Advanced Technologies

Section 131. Findings and Policy. Provides Congressional findings related to the role of nuclear power as an energy source. Establishes a policy of promoting a safe and clean nuclear energy industry, through reductions in financial and technical barriers to construction and operations incentives for the development of a well-trained workforce and the growth of safe domestic nuclear and nuclear-related industries.



Section 132. Nuclear Worker Training. Establishes a grant program, administered by EPA, to provide assistance for training of workers that will be essential for the growth of safe domestic nuclear and nuclear-related industries.

Section 133. Nuclear Safety and Waste Management Programs. Establishes programs to provide grants and other assistance for research projects that seek to develop new technologies for nuclear waste management.

Subtitle D—Water Efficiency

Section 141. WaterSense. Authorizes EPA's WaterSense program, a voluntary program for labeling water-efficient high-performance products and services. Provides the same type of labeling for water-efficient products and services as currently in place for energy-efficient products under the Energy Star program.

Section 142. Federal Procurement of Water-efficient Products. Directs Federal agencies to make cost-effective water-efficient procurement decisions by purchasing WaterSense or Federal Energy Management Program certified products whenever possible.

Section 143. State Residential Water Efficiency and Conservation Incentives Program. Authorizes grants to eligible entities for programs offering incentives to consumers who purchase and install water-efficient products and services such as those labeled under WaterSense.

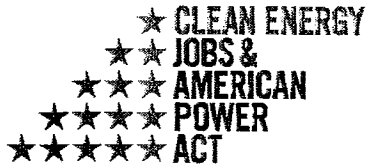
Subtitle E—Miscellaneous

Section 151. Office of Consumer Advocacy. Establishes an Office of Consumer Advocacy within the Federal Energy Regulatory Commission to identify and defend the consumer interest in proceedings before the Commission.

Section 152. Clean Technology Business Competition Grant Program. Provides for grants by EPA to nonprofit organizations for competitive programs supporting start-up businesses in the areas of energy efficiency, renewable energy, air quality, water quality and conservation, transportation, smart grid, green buildings, and waste management.

Section 153. Product Carbon Disclosure Program. Requires EPA to conduct a study regarding effectiveness of a voluntary product carbon disclosure and labeling program, to implement such a program based on the results of the study, and to report to Congress.

Section 154. State Recycling Programs. Requires EPA to establish a state recycling program and develop analyses and methodologies to optimize reductions of greenhouse gas emissions through recycling. Provides that funds distributed by States under the Act to carry out recycling programs be allocated in minimum proportions among county and municipal programs, eligible recycling facilities, and eligible manufacturing facilities.



Section 155. Supplemental Agriculture and Forestry Greenhouse Gas Reduction and Renewable Energy Program. Establishes a new program to provide assistance to agriculture and forestry landowners for projects that reduce greenhouse gases or sequester carbon. Establishes a research program for the development and deployment of renewable energy technologies in the agricultural and forestry sectors.

Section 156. Economic Development Climate Change Fund. Authorizes the Economic Development Administration to provide up to \$50 million per year in technical assistance and grants for projects that promote green economic development in distressed communities.

Section 157. Study of Risk-based Programs Addressing Vulnerable Areas. Requires preparation of a report within two years assessing federal pre-disaster mitigation, emergency response and flood insurance policies and programs that affect areas vulnerable to the impacts of climate change, with strategies and recommendations.

Subtitle F—Energy Efficiency and Renewable Energy

Section 161. Renewable Energy. Directs EPA to establish a program to provide grants and other assistance to renewable energy projects in states with mandatory renewable portfolio standards.

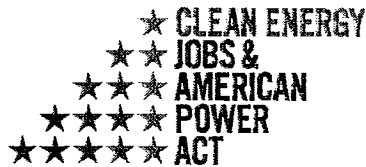
Section 162. Advanced Biofuels. Directs EPA to establish a program to provide grants for research and development into advanced biofuels

Section 163. Energy Efficiency in Building Codes. Requires the EPA Administrator, or such other agency head as the President designates, to set a national goal for improvement in building energy efficiency, promulgate a rule establishing national energy efficiency building codes for residential and commercial buildings, and regularly report to Congress on progress in improving building efficiency.

Section 164. Retrofit for Energy and Environmental Performance. Establishes the Retrofit for Energy and Environmental Performance Program to provide allowances to States to conduct cost-effective building retrofits. Provides that States may use local governments or other agencies or entities to carry out the work and may use flexible forms of financial assistance providing up to 50% of the costs of retrofits, with funding increasing in proportion to efficiency achievement. Provides additional assistance for the retrofitting of historic buildings. Directs the Administrator of EPA to establish standards and guidelines for the program, in consultation with the Secretary of Energy. Requires States to offer preferential access to at least 10% of dedicated program funding to public and assisted housing. Nothing in this section would require a homeowner to audit or retrofit their home to ensure that it meets building code requirements.

Subtitle G—Emission Reductions From Public Transportation Vehicles

Sections 171-173. Amends the Clean Air Act to allow State and local governments to set fuel efficiency standards for emissions from taxi cabs at least as stringent as applicable Federal standards.



Subtitle H—Clean Energy and Natural Gas

Section 181. Clean Energy and Accelerated Emission Reduction Program. Authorizes EPA to carry out a program to provide incentive payments for power generation projects that achieve reductions in greenhouse gases as compared to the electric utility sector average.

Section 182. Advanced Natural Gas Technologies. Authorizes EPA to carry out a program to provide grants for research and development of advanced technologies, including carbon capture and storage, that reduce greenhouse gas emissions from natural gas-fueled electricity generation facilities.

TITLE II—RESEARCH

Subtitle A—Energy Research

Section 201. Advanced Energy Research. Authorizes EPA to carry out a program to provide grants to support research and development on innovative energy technologies that reduce US dependence on foreign energy sources and reduce greenhouse gas emissions.

Subtitle B—Drinking Water Adaptation, Technology, Education, and Research

Section 211. Effects of Climate Change on Drinking Water Utilities. Requires EPA to establish and provide funding for a research program, to be conducted through a nonprofit water research foundation and sponsored by drinking water utilities, to assist utilities in adapting to the effects of climate change.

TITLE III—TRANSITION AND ADAPTATION

Subtitle A—Green Jobs and Worker Transition

Section 301. Clean Energy Curriculum Development Grants. Authorizes the Secretary of Education to award grants, on a competitive basis, to eligible partnerships to develop programs of study focused on emerging careers and jobs in the fields of clean energy, renewable energy, energy efficiency, climate change mitigation, and climate change adaptation.

Section 302. Development of Information and Resources Clearinghouse for Vocational Education and Job Training in Renewable Energy Sectors. Requires the Secretary of Labor, in collaboration with the Secretary of Energy and the Secretary of Education, to develop an internet-based information and resources clearinghouse to aid career and technical education and job training programs for the renewable energy sectors.

Section 303. Green Construction Careers Demonstration Project. Requires the Secretary of Labor, in consultation with the Secretary of Energy, to establish a Green Construction Careers demonstration project to promote careers and quality employment practices in the green construction sector and to



advance efficiency and performance on construction projects related to the Act.

Part 2—Climate Change Worker Adjustment Assistance

Sections 311- 313. Establishes a program pursuant to which any worker displaced as a result of Title VII of the Clean Air Act would be entitled to 156 weeks of income supplement, 80% of their monthly health care premium, up to \$1,500 for job search assistance, up to \$1,500 for moving assistance, and additional employment services for skills assessment, job counseling, training, and other services. Payments under the program cannot exceed the proceeds from the auction of allowances set aside for this purpose.

Subtitle B—International Climate Change Programs

Section 321. Strategic Interagency Board on International Climate Investment. Directs the President to establish the Strategic Interagency Board on International Climate Investment, composed of the Secretary of State, the Administrator of EPA, and other Federal officials, to assess, monitor and evaluate the progress and contributions of U.S. Government entities in supporting financing for international climate change activities.

Section 322. Emission Reductions from Reduced Deforestation. Amends Title VII of the Clean Air Act by inserting Part E, which includes the following new sections:

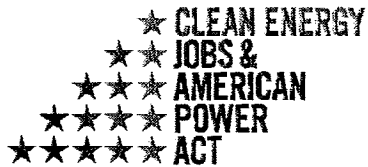
Part E—Supplemental Emission Reductions

Sections 751-752. Definitions and Purposes. Defines forest carbon activities. States the purposes to develop and improve mitigation policies and actions that reduce deforestation and forest degradation or conserve or restore forest ecosystems in developing countries.

Section 753. Emission Reductions from Reduced Deforestation. Directs the Administrator of the United States Agency for International Development (U.S. AID), in consultation with the Administrator of EPA, the Secretary of Agriculture, and the heads of any other appropriate agencies to establish a program to build capacity in developing countries to reduce emissions from deforestation.

Section 323. International Clean Energy Deployment Program. Directs the Secretary of State, in consultation with an interagency group designated by the President, to establish a program that supports activities in developing countries contributing to substantial, measurable, reportable and verifiable reductions, sequestrations or avoidance of greenhouse gas emissions.

Section 324. International Climate Change Adaptation and Global Security Program. Directs the Secretary of State, in consultation with the Administrator of U.S. AID, the Secretary of the Treasury, and EPA to establish a program to provide assistance to the most vulnerable developing countries to protect and promote the interests of the United States.



Section 325. Evaluation and Reports. Directs the Strategic Interagency Board to implement a system to monitor and evaluate the effectiveness and efficiency of assistance provided under this Act. Also directs the Board to prepare an annual report to Congress describing steps agencies have taken and the progress made toward accomplishing the objectives of this part, and the ramifications of any potentially destabilizing impacts climate change may have on the interests of the United States.

Section 326. Report on Climate Action of Major Economies. Requires the Secretary of State, working with the Strategic Interagency Board, to prepare annually an interagency report on the climate change and energy policies of the top five largest greenhouse gas emitting countries that are not members of the Organisation for Economic Co-Operation and Development. Requires the report to provide Congress and the American public with a better understanding of the actions these countries are taking to reduce greenhouse gas emissions and to identify how the United States can assist these countries in achieving these reductions.

Subtitle C—Adapting to Climate Change

PART 1—Domestic Adaptation

Subpart A—National Climate Change Adaptation Program

Sections 341-342. National Climate Change Adaptation Program and Services. Requires the President to establish a National Climate Change Adaptation Program to increase the overall effectiveness of Federal climate change adaptation efforts, and to establish within the National Oceanic and Atmospheric Administration a National Climate Service to develop and disseminate climate information, data, forecasts, and warnings at national and regional scales.

Subpart B—Public Health and Climate Change

Sections 351 – 356. Public Health Adaptation Policy, Action Plans and Advisory Board. States the sense of Congress that the Federal Government should take all means and measures to prepare for and respond to the public health impacts of climate change. Requires the Secretary of Health and Human Services to prepare and implement a national strategic action plan to assist health professionals in preparing for and responding to the impacts of climate change on public health, with disease surveillance, research, communications, education, and training programs, supported by a science advisory board and a needs assessment.

Subpart C—Climate Change Safeguards for Natural Resources Conservation

Sections 361-365. Purposes, Policy, Definitions, Adaptation Panel. States the policy of the Federal Government to use all practicable means and measures to assist natural resources to adapt to climate change. Establishes a Natural Resources Climate Change Adaptation Panel, chaired by the White House Council on Environmental Quality, as a forum for interagency coordination on natural resources adaptation.



Section 366. Natural Resources Climate Change Adaptation Strategy. Requires the Adaptation Panel to develop a strategy for making natural resources more resilient to the impacts of climate change and ocean acidification. The strategy is to assess likely impacts to natural resources, strategies for helping wildlife adapt, and specific actions that Federal agencies should take.

Section 367. Natural Resources Adaptation Science and Information. Establishes a process through National Oceanic and Atmospheric Administration and the U.S. Geological Survey National Global Warming and Wildlife Science Center, to provide technical assistance, conduct research, and furnish decision tools, monitoring, and strategies for adaptation.

Section 368. Federal Natural Resource Agency Adaptation Plans. Requires Federal agencies to develop natural resource adaptation plans, consistent with the National Adaptation Strategy, including prioritized goals and a schedule for implementation of adaptation programs within their respective jurisdictions.

Section 369. State Natural Resources Adaptation Plans. Requires States to develop Natural Resources Adaptation Plans as a condition for receiving funds under the programs in this subtitle.

Section 370. Natural Resources Climate Change Adaptation Account. Provides that allowances devoted to state natural resources adaptation be distributed to the States, with 32.5% going to State wildlife agencies and 6% to State coastal agencies. Funds placed in the Natural Resources Climate Change Adaptation Fund are to be distributed to Federal agencies: 17% to the Department of the Interior (DOI) for endangered species, bird, and Fish and Wildlife Service programs, wildlife refuges, and the Bureau of Reclamation; 5% to DOI for cooperative grant programs; 3% to DOI for tribal programs; 12% to the Land and Water Conservation Fund (1/6 to DOI for competitive grants, 1/3 for land acquisition under §7 of the Land and Water Conservation Fund Act, 1/6 to U.S. Department of Agriculture (USDA) for the Forestry Assistance Act, and 1/3 to the USDA for land acquisition,); 5% to USDA for the Forest Service; 7.5% to EPA for estuaries and freshwater ecosystems; 5% to the Army Corps of Engineers for freshwater ecosystems; and 7% to the Secretary of Commerce for coastal and marine ecosystems. All funds must be used for adaptation activities, and States shall ensure that a minimum of 10% of project costs are paid by non-Federal sources.

Section 371. National Wildlife Habitat and Corridors Information Program. Establishes a program in the DOI to support States and tribes in the development of a geographical information system (GIS) of databases of fish and wildlife habitats and corridors. Facilitates the use of database tools in wildlife management programs.

Section 372. Additional Provisions Regarding Indian Tribes. Clarifies that nothing in this subpart amends Federal trust responsibilities to Indian tribes or exempts information on tribal sacred sites or cultural activities from the Freedom of Information Act, and clarifies that DOI may apply the provisions of the Indian Self-Determination and Education Assistance Act as appropriate.



Subpart D—Additional Climate Change Adaptation Programs

Section 381. Water System Mitigation and Adaptation Partnerships. Requires the EPA Administrator to establish a water system mitigation and adaptation partnership program for distribution of funds under the Act by States as grants for water system adaptation projects. Identifies eligible parties and uses. Provides for a competitive process, prioritizing applications for water systems at the greatest and most immediate risk of facing significant climate-related negative impacts, and establishes requirements and goals to be met by States in awarding grants.

Section 382. Flood Control, Protection, Prevention and Response. Requires the Administrator to establish a program for distribution of funds by States under the Act for flood control, protection, prevention and response projects. Establishes eligible uses, objectives and priorities.

Section 383. Wildfire. Establishes a program to provide grants for education programs to raise awareness of homeowners and citizens about wildland fire protection practices, including FireWise or similar programs, training programs for local firefighters on wildland firefighting techniques and approaches, equipment acquisition to facilitate wildland fire preparedness, implementation of a community wildfire protection plan, and forest restoration that accomplishes fuels reduction.

Section 384. Coastal and Great Lakes State Adaptation Program. Requires the EPA Administrator to distribute annually funding for coastal State economic protection under the Act pursuant to a prescribed formula, for projects and activities addressing the impacts of climate change in coastal watersheds.

DIVISION B—POLLUTION REDUCTION AND INVESTMENT

Title I—Reducing Global Warming Pollution

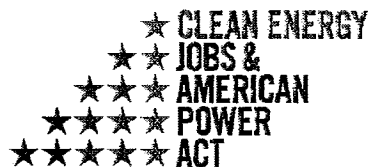
Subtitle A—Reducing Global Warming Pollution

Sections 101-103 and Section 111. Amends the Clean Air Act to add Title VII to establish a declining limit on global warming pollution and to spur private investment in technologies to reduce global warming pollution.

Title VII—GLOBAL WARMING POLLUTION REDUCTION AND INVESTMENT PROGRAM

Part A—Global Warming Pollution Reduction Goals and Targets

Section 701-702. Findings, Economywide Reduction Goals. States that the goals of Title VII and Title VIII are to reduce economy-wide global warming pollution to 97% of 2005 levels by 2012, 80% by 2020, 58% by 2030, and 17% by 2050.



Section 703. Reduction Targets for Specified Sources. Requires that the regulations issued under Title VII reduce emissions of covered sources to 97% of 2005 levels by 2012, 80% by 2020, 58% by 2030, and 17% by 2050.

Section 704. Supplemental Pollution Reductions. Directs the EPA Administrator to achieve additional low-cost reductions in global warming pollution equal to an additional 10 percentage points of reductions from U.S. emissions in 2005 by using a small portion of the emissions allowances to provide incentives to reduce emissions from international deforestation.

Section 705. Review and Program Recommendations. Directs the Administrator to submit a report to Congress every four years that includes an analysis of the latest science relevant to climate change, an analysis of capacity to monitor and verify greenhouse gas reductions, an analysis of worldwide and domestic progress in reducing global warming pollution, and additional measures that can be taken.

Section 706. National Academy Review. Directs the EPA Administrator to commission reports from the National Academy of Sciences every four years, to evaluate the most recent EPA report submitted under Section 705, and provide recommendations for actions to avoid dangerous climate change.

Section 707. Presidential Response and Recommendations. Directs the President to use existing authority to respond to recommendations in the reports issued under sections 705 and 706. If the National Academy review confirms that further emission reductions are needed, either domestically or globally, the President must submit a report to Congress recommending steps (including legislation) to achieve those reductions.

Part B—Designation and Registration of Greenhouse Gases

Section 711. Designation of Greenhouse Gases. Establishes a list of greenhouse gases regulated under this title: carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons (HFCs) emitted as a byproduct, perfluorocarbons, and nitrogen trifluoride. The EPA Administrator may designate additional anthropogenic greenhouse gases by rule.

Section 712. Carbon Dioxide Equivalent Value of Greenhouse Gases. Lists carbon dioxide equivalents for each gas. Requires periodic review of equivalence values by the Administrator.

Section 713. Greenhouse Gas Registry. Directs EPA to establish a Federal greenhouse gas registry and comprehensive reporting system for greenhouse gas emissions.

Section 714. Perfluorocarbon Regulation. Provides the Administrator the discretion to regulate the production of perfluorocarbon either under the emissions limits established under Section 722 or through a combination of best available control technology combined with a mandatory phase-down schedule.



Part C—Program Rules

Section 721. Emission Allowances. Establishes an annual tonnage limit on greenhouse gas emissions from specified activities. Directs the EPA Administrator to establish allowances equal to the tonnage limit for each year (with one allowance representing the permission to emit one ton of greenhouse gases, measured in tons of carbon dioxide equivalent).

Section 722. Prohibition of Excess Emissions. Prohibits covered entities from emitting or having attributable greenhouse gases in excess of their allowable emissions level, which is determined by the number of emission allowances and offset credits they hold on the specified date. Electricity generators, refiners and importers of petroleum-based and other specified liquid fuels, fluorinated gas manufacturers, and emitters of nitrogen trifluoride are covered entities starting with emissions in 2012. Specified industrial sources are covered starting with emissions in 2014. Local distribution companies that deliver natural gas are covered starting with emissions in 2016.

Allows covered entities to use a total of up to two billion tons of domestic and international offset credits in lieu of allowances to demonstrate compliance for a portion of their emissions. The ability to use these offsets is divided pro rata among all covered entities. Of the two billion tons of offset credits, $\frac{3}{4}$ may be derived from domestic offsets and $\frac{1}{4}$ from international offsets. If the Administrator determines that an insufficient number of domestic offsets are available, the number of international offsets available may be increased by 750 million metric tons. Starting with the 2018 compliance obligation, covered entities using offset credits must submit five tons of international offset credits for every four tons of emissions being offset.

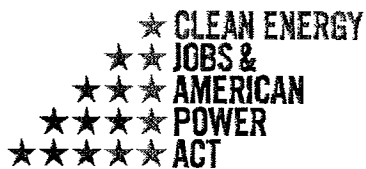
Allows the use of term offset credits in lieu of domestic offset credits to demonstrate temporary compliance with the Act. When the crediting term of a term offset credit expires, the covered entity must either submit a term offset credit to continue to demonstrate compliance temporarily or submit an allowance or domestic offset credit to demonstrate final compliance.

Covered entities may also submit an international emission allowance or compensatory allowance in place of a domestic emission allowance.

Section 723. Penalty for Noncompliance. Establishes penalties for parties that fail to comply with the requirements of Title VII.

Section 724. Trading. Clarifies that Title VII as established by this section does not restrict who can hold an allowance, nor does it restrict the purchase, sale, or other transactions involving allowances.

Section 725. Banking and Borrowing. Permits unlimited banking of allowances for use during future compliance years. Establishes a two-year rolling compliance period by allowing covered entities to borrow an unlimited number of allowances from one year into the future. Covered entities may also satisfy up to 15% of their compliance obligations by submitting emission allowances with vintage years 2



to 5 years in the future, but must pay an 8% premium (in allowances) to do so.

Section 726. Market Stability Reserve. Directs the Administrator to create a “market stability reserve” of emission allowances that will be auctioned at a minimum set price (\$28/ton in 2012) that increases annually. The auction of additional allowances will help contain the costs of meeting the annual greenhouse gas limits and minimize price fluctuations. The “market stability reserve” will be established by setting aside a number of allowances from each year’s limit. Following an auction, the reserve will be refilled through the purchase and retirement of offset credits.

Section 727. Permits. Clarifies the obligations of operators of stationary sources under the Clean Air Act’s Title V operating permit program under the newly-established Title VII program.

Section 728. International Emission Allowances. Establishes criteria that must be met before allowances from foreign programs can be used for compliance by covered entities.

Part D – Offsets

Section 731. Offsets Integrity Advisory Board. Establishes an independent Offsets Integrity Advisory Board composed of scientists and others with relevant expertise, to review the offsets program and provide recommendations to the President on: offset project eligibility, scientific uncertainty, quantification methodologies and related issues.

Section 732. Establishment of Offsets Program. Directs the President to establish an offsets program and requires that regulations ensure offsets are verifiable, additional, and permanent.

Section 733 Eligible Project Types. Requires the President to establish and update a list of offset project types that are eligible under the program, taking into account the recommendations of the Offsets Integrity Advisory Board. Projects types for consideration include fugitive methane emissions from coal mines, landfills, and oil and gas distribution facilities; agricultural, grassland, and rangeland sequestration and management practices; and changes in carbon stocks attributed to land use change and forestry activities.

Section 734. Requirements for Offset Projects. Requires that for each offset project type, the President establish standardized methodologies for: determining additionality; establishing activity baselines; measuring performance; and accounting for and mitigating potential leakage. Establishes requirements regarding the permanence of offset projects and crediting periods, and procedures to address reversals, including penalties.

Section 735. Approval of Offset Projects. Establishes procedures for approval of offset projects, including reporting and record-keeping requirements and a requirement that an offset project developer certify the accuracy of information provided in an approval petition.



Section 736. Verification of Offset Projects. Directs the President to establish requirements for the verification of offset project performance, and requires that verification reports be prepared by accredited third-party verifiers. Allows the President to revoke the accreditation of any third-party verifier that the President finds fails to maintain professional qualifications or to avoid a conflict of interest

Section 737. Issuance of Offset Credits. Establishes procedures for the issuance of offset credits and directs the President to issue offset credits only if the emissions reduction or sequestration has already occurred and other specified conditions are met.

Section 738. Audits. Requires the President to conduct, on an ongoing basis, random audits of offset projects, offset credits, and practices of third-party verifiers. Allows the President to delegate this responsibility to State governments.

Section 739. Program Review and Revision. Requires the periodic evaluation and updating of specified areas and components of the offsets program.

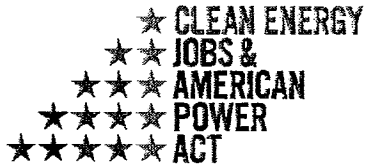
Section 740. Early Offset Supply. To ensure a supply of offset credits in the early years of the program, allows for the issuance of offset credits for offsets from State or other programs that meet specified criteria. Limits the issuance of offset credits under this section to reductions that occur between January 1, 2009, and three years after enactment or the effective date of Federal offset regulations, whichever is sooner.

Section 741. Environmental Considerations. Requires additional environmental considerations for forestry and other land management-related offset projects.

Section 742. Trading. Provides that the trading provisions applicable to allowances are also applicable to offset credits.

Section 743. Office of Offsets Integrity. Establishes an Office of Offsets Integrity within the Department of Justice to: supervise and coordinate investigations and civil enforcement of the carbon offsets program established in this part; ensure that Federal law relating to civil enforcement of the carbon offsets program is used to the fullest extent authorized; and ensure that adequate resources are made available for the investigation and enforcement of civil violations of the carbon offsets program.

Section 744. International Offset Credits. Allows the President to issue international offset credits for activities that take place in developing countries. Requires that all international offset credits meet the criteria established for all offsets under sections 732-742, as well as the requirements specific to international offsets established under this section. Requires that the U.S. be a party to a bilateral or multilateral agreement or arrangement with the country where an offset activity would take place before any international offset credits can be issued. Establishes procedures and requirements regarding the issuance of international offset credits for activities that reduce deforestation.



Section 102. Definitions. Defines key terms for Titles VII and VIII of the Clean Air Act.

Section 103. Offset Reporting Requirements. Amends Section 114 of the Clean Air Act to require any person who is an offset project developer to establish and maintain records for a period of not less than the offset project crediting period plus five years.

Subtitle B—Disposition of Allowances

Section 111. Disposition of Allowances for Global Warming Pollution Reduction Program. Provides for emission allowances to be distributed for three primary goals: to protect consumers from energy price increases, to assist industry in the transition to clean energy, and to spur energy efficiency and the deployment of clean energy technology. Allocates allowances to prevent deforestation and support national and international adaptation efforts and for other purposes.

Part H—Disposition of Allowances

Section 771. Allocation of Emission Allowances. Provides for allocation and auction of allowances.

Section 772. Electricity Consumers. Directs distribution of allowances allocated for the benefit of consumers to local electricity distribution companies (LDCs), whose retail rates are regulated by States or other entities. Requires half of the allowances to be distributed based on historic emissions and half based on retail sales, but prohibits any electricity LDC from receiving allowances whose value exceeds the LDC's direct and indirect costs of complying with this Title. Requires that these allowances be used exclusively for the benefit of the LDC's retail ratepayers, and prohibits the Administrator from releasing an LDC's allowances until after a ratemaking or similar proceeding has been conducted regarding the appropriate use of the allowances.

Directs distribution of allowances for merchant coal generators and for certain generators with long-term power purchase agreements, and to small LDCs to support renewable electricity deployment, energy efficiency programs, and consumer assistance for low-income ratepayers. Requires the Administrator to conduct an audit of LDCs receiving allowances under this section to ensure that emission allowances have been used exclusively for the benefit of retail ratepayers. Every three years, the U.S. Government Accountability Office is required to report on the integrity of the allowance program, and the Administrator is required to submit to Congress an evaluation of the disposition of emission allowances.

Section 773. Natural Gas Consumers. Directs the Administrator on how to distribute the allowances allocated for the benefit of consumers to local natural gas distribution companies, whose retail rates are regulated by States or other entities.



Section 774. Home Heating Oil and Propane Consumers. Directs the Administrator on how to distribute allowances to States for programs to benefit residential and commercial users of home heating oil, propane, and kerosene.

Section 775. Domestic Fuel Production. Directs the Administrator on how to distribute allowances to domestic refiners, including small business refiners.

Section 776. Consumer Protection. Dedicates proceeds from the sales of allowances to offset electricity cost impacts to low and moderate-income consumers and to provide relief to consumers and others affected by the Act.

Section 777. Exchange for State-Issued Allowances. Provides for fair compensation and exchange of allowances issued by the State of California, the Regional Greenhouse Gas Initiative and the Western Climate Initiative prior to commencement of federal program.

Section 778. Auction Procedures. Establishes single-round, sealed-bid, uniform-price auction procedures, which may be modified by the Administrator. Provides that a percentage of allowances will be made available for small business refiners to purchase for compliance for that year at the average auction price.

Section 779. Auctioning Allowances for Other Entities. Establishes rules by which the Administrator may auction allowances on behalf of other entities.

Section 780. Commercial Deployment of Carbon Capture and Sequestration Technologies. Directs the EPA Administrator to establish an incentive program to distribute allowances to support the commercial deployment of CCS technologies in both electric power generation and industrial applications. Establishes eligibility requirements for facilities to receive allowances based on the number of tons of carbon dioxide sequestered. The allowance disbursement program is structured to provide greater incentives for facilities to deploy CCS technologies early in the program and for facilities to capture and sequester larger amounts of carbon dioxide.

Section 781. Oversight of Allocations. Requires the Comptroller General to prepare biannual reviews of the programs administered by the Federal Government that distribute emission allowances or funds from Federal auctions of allowances.

Section 782. Early Action Recognition. Provides allowances for projects and activities that sequestered carbon or reduced greenhouse gas emissions prior to the beginning of the Pollution Reduction and Investment Program established in this Title.

Section 783. Establishment of Deficit Reduction Fund. Establishes a deficit reduction fund in the U.S. Treasury.



Subtitle C—Additional Greenhouse Gas Standards

Section 121. Greenhouse Gas Standards. Establishes Title VIII of the Clean Air Act to achieve additional greenhouse gas reductions outside of Title VII.

Title VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

Section 801. Definitions. Defines terms used in Title VIII.

Part A—Stationary Source Standards

Section 811. Standards of Performance. Directs the Administrator to delay until January 1, 2020 the establishment of standards of performance under section 111 of the Clean Air Act for stationary sources whose emissions are not subject to the requirements of Section 721 and are eligible as offset projects under Section 733.

Section 122. HFC Regulation. Amends Title VI of the Clean Air Act by adding a new section 619 to phase down the consumption of hydrofluorocarbons (HFCs), many of which are extremely potent greenhouse gases, under a separate limit and reduction schedule. Using a market-based regulatory approach, requires HFC consumption to be phased-down to 15% of the baseline by 2032. Requires allowances to be distributed through a combination of annual auctions and non-auction sales. Allows offset credits for destruction of chlorofluorocarbons (CFCs).

Section 123. Black Carbon. Directs the Administrator to conduct a study of black carbon emissions, report on existing efforts to reduce domestic black carbon pollution, and in coordination with the Secretary of State, to report to Congress on current and potential future assistance to foreign nations to help reduce black carbon pollution. Includes in Title III of the Clean Air Act a provision directing the Administrator to use existing authority to achieve further reductions.

Section 124. States. Amends section 116 of the Clean Air Act to preserve States' existing authority to adopt and enforce standards or limitations on air pollution under the Clean Air Act, including greenhouse gas emissions.

Section 125. State Programs. Includes in Title VIII of the Clean Air Act section 861, barring States from implementing or enforcing a Comprehensive Greenhouse Gas Emission Limitation program to control greenhouse gas emissions covered by Title VII. The moratorium begins in 2012 or 9 months after the first auction, whichever is earlier, and continues through the year 2017. Includes section 862, which authorizes the Administrator to make grants to air pollution control agencies under section 105 of the Clean Air Act to implement global warming programs established under the Clean Air Act.

Section 126. Enforcement. Amends section 307 of the Clean Air Act to provide that in ruling on a petition for review under the Clean Air Act, the court may remand without overturning an action of the



Administrator under specified circumstances. Sets deadline for the Administrator to respond to a court remand and take final action.

Section 127. Conforming Amendments. Provides for conforming amendments to Clean Air Act enforcement and administrative provisions to incorporate Titles VII and VIII.

Section 128. Davis-Bacon Compliance. Requires recipients of emission allowances or funding under this Act to provide reasonable assurances that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by the Federal Government pursuant to this Act will be paid at least prevailing wages as determined by the Secretary of Labor in accordance with what is commonly known as the Davis-Bacon Act (subchapter IV of chapter 31 of title 40, United States Code). Excludes application of these provisions to retrofitting of residential buildings (apart from large apartment buildings) and smaller nonresidential buildings.

Subtitle D—Carbon Market Assurance

Sections 131. Carbon Market Assurance. States the sense of the Senate that there shall be a carbon market oversight program to provide for effective and comprehensive market oversight and enforcement that lowers systemic risk and protects consumers.

Subtitle E—Ensuring Real Reductions in Industrial Emissions

Section 141. Ensuring Real Reductions in Industrial Emissions. Creates a program within Title VII of the Clean Air Act, as established by this Act, to ensure real reductions in industrial greenhouse gas emissions through emission allowance rebates.

Part F—Ensuring Real Reductions in Industrial Emissions

Section 761. Purposes. Outlines purposes, including promoting a strong global effort to significantly reduce greenhouse gas emissions and preventing an increase in greenhouse gas emissions in foreign countries as a result of compliance costs incurred under Title VII of the Clean Air Act.

Section 762-764. Definitions, Eligible Industrial Sectors, Distribution of Emission Allowance Rebates. Establishes a program that rebates emission allowances to eligible industrial sectors to compensate these sectors for costs incurred as a result of compliance with Title VII of the Clean Air Act, as added by this Act. Requires the Administrator to determine which sectors and sub-sectors should be eligible for rebates through a rulemaking based on an assessment of the energy and greenhouse gas intensity of each sector and the trade intensity of each sector.

Section 765. International Trade. States the sense of the Senate that there will be trade provisions, including a border measure that is consistent with international obligations of the United States and designed to work in conjunction with provisions that allocate allowances to energy-intensive and trade-exposed industries.



TITLE II—PROGRAM ALLOCATIONS

Section 201. Investment in Clean Vehicle Technology. Distributes emission allowances for development and demonstration of a national transportation low-emission energy plan; use of domestically-produced plug-in electric drive vehicles; and grants to reduce diesel engine emissions.

Section 202. State and Local Investment in Energy Efficiency and Renewable Energy. Distributes emission allowances to States, Indian tribes, local governments, metropolitan planning organizations, and renewable electricity generators for programs to reduce greenhouse gas emissions, promote energy efficiency and conservation, and accelerate the deployment of renewable energy sources. States shall receive 62.5 percent of allowances distributed under this section, of which not less than 35 percent shall be used for specified energy efficiency programs and not less than two percent shall be used for thermal energy efficiency projects. States may also use their allocation allowances for other purposes including renewable energy programs, improvements in electricity transmission, cost-effective energy efficiency programs for end-use consumers, retrofits and housing investments, and smart grid development. States and metropolitan planning organizations shall receive 10 percent of the allowance allocations under this section for grants from the Secretary of Transportation to reduce greenhouse gas emissions in the transportation sector. Local governments shall receive 25 percent of allowance allocations under this section for Energy Efficiency Community Block Grants.

Section 203. Energy Efficiency in Building Codes. Distributes emission allowances according to the formula in Section 202 to update and implement building codes pursuant to Section 163 of Division A.

Section 204. Building Retrofit Program. Distributes emission allowances according to the formula in Section 202 to provide assistance for energy efficiency building retrofits pursuant to Section 164 of Division A.

Section 205. Energy Innovation Hubs. Distributes emission allowances for research and development of clean technologies. Allowances are distributed through regional energy innovation hubs.

Section 206. ARPA-E Research. Distributes emission allowances to qualified research institutions to achieve the goals of the Advanced Research Projects Agency-Energy (ARPA-E), as described in section 5012(c) of the America COMPETES Act.

Section 207. International Clean Energy Deployment Program. Distributes emission allowances to provide assistance to developing countries for clean energy deployment pursuant to Section 323 of Division A.

Section 208. International Climate Change Adaptation and Global Security. Distributes emission allowances to provide assistance to developing countries for climate change adaptation pursuant



to Section 324 of Division A.

Section 209. Energy Efficiency and Renewable Energy Worker Training. Provides emission allowances to the Secretary of Energy to carry out the Energy Efficiency and Renewable Worker Training program authorized in the Workforce Investment Act of 1998.

Section 210. Worker Transition. Provides emission allowances for worker transition assistance pursuant to the program established in Sections 311-313 of Division A

Section 211. State Programs for Greenhouse Gas Reduction and Climate Adaptation. Distributes proceeds of emission allowances for implementation of projects, programs, or measures to reduce emissions of greenhouse gases and build resilience to the impacts of climate change. Ten percent (10%) of allowance proceeds are reserved for funding of coastal State economic protection programs pursuant to the program in Section 384 of Division A. At least one percent (1%) of allowance proceeds are reserved to support climate change response programs administered by Indian tribes. Fifty percent (50%) of the remaining proceeds are dedicated to transit grant programs. The remaining proceeds are allocated to fund State and local programs, including; grants to fund water systems mitigation and adaptation partnerships; flood control and response; recycling programs; adverse impacts on agriculture and ranching activities; and programs addressing air pollution and air quality. States and tribes are required to prepare Climate Change Response Plans governing uses of funds and to report on such uses in detail every two years.

Section 212. Climate Change Health Protection and Promotion Fund. Distributes proceeds of emission allowances for activities to prepare and respond to the impacts of climate change on public health pursuant to Sections 351-356 of Division A.

Section 213. Climate Change Safeguards for Natural Resources Conservation. Distributes proceeds of emission allowances for activities to prepare and respond to the impacts of climate change on natural resources pursuant to Sections 361-372 of Division A.

Section 214. Nuclear Worker Training. Distributes proceeds of emission allowances to provide assistance for training of workers that will be essential for the growth of safe domestic nuclear and nuclear-related industries pursuant to Section 132 of Division A.

Section 215. Supplemental Agriculture, Renewable Energy, and Forestry. Provides allowances for investment in agriculture and forestry projects to sequester carbon and reduce greenhouse gas emissions pursuant to the program in Section 155 of Division A.

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